

SECOND REGULAR SESSION

# HOUSE BILL NO. 2204

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

4466H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 578.018 and 578.030, RSMo, and to enact in lieu thereof two new sections relating to the confiscation of animals, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 578.018 and 578.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 578.018 and 578.030, to read as follows:

578.018. 1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate **circuit** court to enable ~~[him or her]~~ **the law enforcement official** to enter private property in order to inspect, care for, or ~~[impound]~~ **confiscate** neglected or abused animals **as set forth in such warrant**. All requests for such warrants shall be **signed, witnessed, and** accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to ~~[578.023]~~ **578.025** has occurred. **All warrants shall be served in the presence of a law enforcement official.** A person acting under the authority of a warrant shall:

(1) ~~[Be given]~~ **Appear at** a disposition hearing before the court through which the warrant was issued, within ~~[thirty]~~ **ten** days of the ~~[filing of the request]~~ **confiscation** for the purpose of granting immediate disposition of the animals ~~[impounded]~~. **No animal shall be sterilized prior to the completion of such disposition hearing unless necessary to save life or relieve suffering;**

(2) Place ~~[impounded]~~ animals in the care or custody of a veterinarian, the appropriate animal control authority, ~~[or]~~ **an animal shelter, or a third party approved by the court.** If no appropriate veterinarian, animal control authority, ~~[or]~~ animal shelter, **or**

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **third party** is available, the animal shall not be ~~[impounded]~~ **confiscated** unless it is diseased  
18 or disabled beyond recovery for any useful purpose;

19 (3) Humanely kill any animal ~~[impounded]~~ **confiscated** if it is determined by a  
20 licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful  
21 purpose;

22 (4) Not be liable for any **reasonable and** necessary damage to property while acting  
23 under such warrant.

24 2. (1) **The owner of any animal that has been confiscated under this section shall**  
25 **not be responsible for the animal's care and keeping prior to a disposition hearing if, at**  
26 **the disposition hearing, there is no finding of abuse by the court and the court orders the**  
27 **animal returned to the owner.**

28 (2) **If, at the disposition hearing, the court finds that abuse likely occurred and**  
29 **does not order the animal returned to the owner, after completion of the disposition**  
30 **hearing the owner or custodian or any person claiming an interest in any animal that has been**  
31 **[impounded] confiscated because of neglect or abuse may prevent disposition of the animal**  
32 **after the disposition hearing and until final judgment, settlement, or dismissal of any**  
33 **criminal charges by posting reasonable bond or security within seventy-two hours of the**  
34 **disposition hearing in an amount sufficient to provide for the animal's care and keeping [for**  
35 **at least thirty days, inclusive of the date on which the animal was taken into custody] and**  
36 **consistent with the fair market cost of boarding such an animal in an appropriate retail**  
37 **boarding facility.** Notwithstanding the fact that **reasonable** bond may be posted pursuant to  
38 this ~~[subsection]~~ **subdivision**, the authority having custody of the animal may humanely  
39 dispose of the animal at the end of the time for which **reasonable** expenses are covered by the  
40 bond or security, unless there is a court order prohibiting such disposition. Such order shall  
41 provide for a **reasonable** bond or other security in the amount necessary to protect the  
42 authority having custody of the animal from any cost of the care, keeping, or disposal of the  
43 animal.

44 (3) The authority taking custody of an animal shall give notice of the provisions of  
45 this section ~~[by posting a copy of this section at the place where the animal was taken into~~  
46 ~~custody or]~~ by delivering ~~[it]~~ **a copy of this section** to a person residing on the property.

47 3. The owner or custodian of any animal humanely killed pursuant to this section  
48 shall not be entitled to recover any damages related to nor the actual value of the animal if the  
49 animal was found by a licensed veterinarian to be diseased or disabled **beyond recovery for**  
50 **any useful purpose**, or if the owner or custodian failed to post bond or security for the care,  
51 keeping, and disposition of the animal after being notified of ~~[impoundment]~~ **confiscation**  
52 **and after completion of the disposition hearing.**

53           **4. All animals confiscated under this section shall receive proper care as**  
54 **determined by state law and regulations for each specific animal and facility or**  
55 **organization where the animal is placed after such confiscation. Any such facility or**  
56 **organization shall be liable to the animal owner for damages for any negligent acts or**  
57 **abuse of such animal that occurs while the animal is in the care, custody, and control of**  
58 **the facility or organization.**

59           **5. In the event that the animal owner is not liable for the costs incurred for the**  
60 **placement and care of an animal or animals while charges were pending, such costs**  
61 **relating to placement and care, as well as liability for the life or death of the animal and**  
62 **for medical procedures performed while charges were pending, shall be the**  
63 **responsibility of and shall be borne and paid by the confiscating agency. Such costs**  
64 **shall be consistent with the fair market value of boarding an animal at a retail**  
65 **establishment and with the usual and customary costs of veterinary medical services**  
66 **provided by a clinic licensed under chapter 340.**

67           **6. If the owner posted a sufficient bond and is acquitted or there is a final**  
68 **discharge without conviction, unless there is a settlement agreement, consent judgment,**  
69 **or a suspended imposition of sentence, the owner may demand the return of the animal**  
70 **held in custody. Any entity with care, custody, and control of such animal shall**  
71 **immediately return such animal to the owner upon demand and proof of such acquittal**  
72 **or final discharge without conviction. Upon acquittal or final discharge without**  
73 **conviction, unless there is a settlement agreement, consent judgment, or a suspended**  
74 **imposition of sentence, the owner shall not be liable for any costs incurred relating to**  
75 **the placement or care of the animal during the pendency of the charges.**

76           **7. Any person or entity that intentionally euthanizes, other than as permissible**  
77 **under this section, or intentionally sterilizes an animal prior to a disposition hearing or**  
78 **during any period for which reasonable bond was secured for the animal's care is guilty**  
79 **of a class B misdemeanor and shall be liable to the owner of the animal for damages**  
80 **including, but not limited to, the actual value of the animal. Each violation against each**  
81 **individual animal is a separate offense. Any second or subsequent violation is a class A**  
82 **misdemeanor and any entity licensed under state law shall be subject to licensure**  
83 **sanction by its governing body.**

578.030. 1. The provisions of section 43.200 notwithstanding, any member of the  
2 state highway patrol or other law enforcement officer may apply for and serve a search  
3 warrant, and shall have the power of search and seizure in order to enforce the provisions of  
4 sections 578.025 to 578.050. **All requests for such warrants shall be signed, witnessed,**  
5 **and accompanied by an affidavit stating the probable cause to believe a violation of**  
6 **sections 578.025 to 578.050 has occurred.**

7           2. Any member of the state highway patrol or other law enforcement officer making  
8 an arrest under section 578.025 shall lawfully take possession of all dogs or other animals **in**  
9 **accordance with the provisions of section 578.018** and all paraphernalia, implements, or  
10 other property or things used or employed, or about to be employed, in the violation of any of  
11 the provisions of section 578.025. Such officer, after taking possession of such dogs, animals,  
12 paraphernalia, implements or other property or things, shall file with the court before whom  
13 the complaint is made against any person so arrested an affidavit stating therein the name of  
14 the person charged in such complaint, a description of the property so taken and the time and  
15 place of the taking thereof together with the name of the person from whom the same was  
16 taken and the name of the person who claims to own such property, if known, and that the  
17 affiant has reason to believe and does believe, stating the ground of such belief, that the  
18 property so taken was used or employed, or was about to be used or employed, in such  
19 violation of section 578.025. ~~[He or she]~~ **The officer** shall thereupon deliver the property so  
20 taken to the court, which shall, by order in writing, place the same in the custody of an officer  
21 or other proper person named and designated in such order, to be kept by ~~[him or her]~~ **such**  
22 **officer or other proper person named and designated in such order** until the conviction or  
23 final discharge of such person complained against, and shall send a copy of such order  
24 without delay to the prosecuting attorney of the county. The officer or person so named and  
25 designated in such order shall immediately thereupon assume the custody of such property  
26 and shall retain the same, subject to the order of the court before which such person so  
27 complained against may be required to appear for trial. **If the property includes animals,**  
28 **the placement of the animals shall be handled in accordance with the provisions of**  
29 **section 578.018.** Upon the conviction of the person so charged, all property so seized shall be  
30 adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed  
31 of as the court may order. In the event of the acquittal or final discharge without conviction of  
32 the person so charged, such court shall, on demand, direct the delivery of such property so  
33 held in custody to the owner thereof.

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